

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-6689

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

SPENCER BOWENS, a/k/a Scooter, a/k/a Clyde,
a/k/a Melvin McCurdy, a/k/a Doc Johnson,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern
District of Virginia, at Richmond. Robert E. Payne, District Judge.
(CR-98-110, CA-02-211-3)

Submitted: July 24, 2003

Decided: August 6, 2003

Before NIEMEYER, MICHAEL, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Spencer Bowens, Appellant Pro Se. David John Novak, OFFICE OF THE
UNITED STATES ATTORNEY, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Spencer Bowens seeks to appeal the district court's orders denying relief on his motion filed under 28 U.S.C. § 2255 (2000), denying his motion to reconsider, and denying his motion to supplement his motion to reconsider. An appeal may not be taken from the final order in a proceeding under § 2255 unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue for claims addressed by a district court on the merits absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). As to claims dismissed by a district court solely on procedural grounds, a certificate of appealability will not issue unless the movant can demonstrate both "(1) 'that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right' and (2) 'that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.'" Rose v. Lee, 252 F.3d 676, 684 (4th Cir.) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)), cert. denied, 534 U.S. 941 (2001). We have independently reviewed the record and conclude that Bowens has not satisfied either standard. See Miller-El v. Cockrell, 537 U.S. 322, ___, 123 S. Ct. 1029, 1039 (2003). Accordingly, we deny Bowens' motion for a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are

adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED